



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of

AMEX Assurance Company,

An Authorized Insurer

No. D 98- 11

CONSENT ORDER

FACTS AND STIPULATIONS::

1. AMEX Assurance Company (hereinafter "AMEX") is an authorized insurer in this state.
2. On May 9, 1996, AMEX sent the Office of the Insurance Commissioner (hereinafter "the OIC") a rate filing for a private passenger automobile product. This filing introduced premium discounts for those insureds who had certain specified anti-theft devices installed in their automobiles. The OIC approved that filing, with an effective date of June 1, 1996.
3. AMEX never implemented the discounts in this original filing. Instead, on April 28, 1997, AMEX sent the OIC a second filing. Its purpose was to withdraw the discounts which were the subject of the first filing. Mr. Joshua Ligosky of the OIC sent AMEX a letter on May 27, 1997, inquiring about the reason AMEX wanted to withdraw the discounts. On June 26, 1997, a Contract Analyst at AMEX named Jean Tilkens wrote back to say that due to "programming time conflicts", AMEX had never implemented the discounts and that "...the discount was never offered to any policyholders last year".
4. The effect of this failure by AMEX to implement the discounts was that an undetermined number of Washington insureds, who had installed some or all of the "anti-theft" devices mentioned in the first filing, were overcharged on their premiums in an amount corresponding to the discounts which AMEX failed to implement.
5. AMEX stipulates to the foregoing facts.

FINDINGS:

1. The Commissioner finds that RCW 48.19.040(1) requires that "Every insurer...shall, before using, file with the Commissioner every classifications manual, manual of rules and rates, rating plan, etc." Therefore AMEX was required to file its rates and rules for this private passenger automobile product before using them.

2. The Commissioner finds that the failure to implement the discounts for anti-theft equipment was a violation of RCW 48.19.040(6), which provides that "Where a filing is required, no insurer shall make or issue an insurance contract except in accordance with its filing then in effect." The filing approved for an effective date of June 1, 1996 was illusory, since its discounts were never implemented.

3. The Commissioner finds that RCW 48.05.140(1) authorizes the Commissioner to suspend or revoke an insurer's certificate of authority if the insurer "...fails to comply with any provision of this code (i.e. Title 48 RCW, the Insurance Code) other than those for violation of which...suspension or revocation is mandatory..." In addition to suspension or revocation of an insurer's certificate of authority, RCW 48.05.185 authorizes the Commissioner to "...levy a fine upon the insurer in an amount not less than two hundred fifty dollars and not more than ten thousand dollars." That is in addition to, or in lieu of, suspension or revocation of the certificate of authority.

CONSENT TO ORDER:

AMEX stipulates to the findings by the Insurance Commissioner and also consents to a fine in the amount of \$5,000. This sum is to be paid in full within thirty days after this order is entered in Olympia, Washington. If the fine is not timely paid in full, the Insurance Commissioner shall revoke the insurer's certificate of authority, and the fine shall be recoverable in a civil action brought on behalf of the Insurance Commissioner by the Attorney General, pursuant to RCW 48.05.185.

Signed this 20th day of
March, 1998

AMEX Assurance Company
By Kenneth J. Cich
Title PRESIDENT

IT IS ORDERED that pursuant to RCW 48.05.140 and RCW 48.05.185, The Insurance Commissioner imposes a fine upon AMEX Assurance Company in the amount of \$5000. This is to be paid in full within 30 days after this order is entered in Olympia, Washington. If the fine is not timely paid in full, the Insurance Commissioner shall revoke the insurer's certificate of authority, and the fine will be recoverable in a civil action brought on behalf of the Insurance Commissioner by the Attorney General, pursuant to RCW 48.05.185.

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SIGNED AND ENTERED THIS 1st DAY OF April, 1998

By Edward Fleisher

Edward Fleisher, Deputy
Insurance Commissioner, Legal Affairs